

From: [Jones, Danielle](#)
To: [Smith, Peterj](#)
Cc: [Hofmann, Angela](#); [Kim, Jim](#); [Davis, Kathy](#); [Keaney, Kevin](#); [Garrison, Scott](#); [Thundiylil, Karen](#)
Subject: RE: EO 12866 Review: Ag Worker Protection Standard Revisions NPRM (RIN 2070-AJ22) - EPA Response to Interagency Comments
Date: Monday, December 09, 2013 4:17:05 PM

Hello Peter,

I would like to thank you and the staff today for hosting the call despite the inclement weather. As agreed to on the call, I will be sending additional follow-up from the interagency reviewers as it is received and processed.

DOL had some additional follow-up on question 97, which I have pasted below.

The program area was interested in the next steps. I provided interagency reviewers with a deadline of Friday, Dec 13 to send additional follow-up comments regarding the WPS proposed rule. I will process the comments and send those to you in the first part of next week. We can discuss at that time if it is prudent to schedule another interagency call.

Please thank the program area again for their quick turn around on responses.

Best,
Danielle

WHD/FLSD

EPA's response to comment 97 amends the existing preamble language to state "Under the Department of Labor's Fair Labor Standards Act of 1938, children may work at younger ages and in more hazardous tasks in agriculture than is permitted in other industries. . . ."

We request that the language be edited to read:

The Fair Labor Standards Act's child labor provisions, which are administered by the Department of Labor, permit children to work at younger ages in agricultural employment than in nonagricultural employment."

DOL requests that EPA refrain from representing that children are permitted to work in more hazardous tasks in agricultural employment. As discussed briefly in our phone call, the U.S.G. ratified the International Labor Organization's Convention No. 182 on the Worst Forms of Child Labor in 1999. When it ratified that convention, the U.S.G. made certain representations with respect to its laws and the protection of children pursuant to those laws, in agricultural and nonagricultural employment, that could be undermined by such a statement.

Likewise, we request that EPA refrain from mentioning the FLSA's 13(c)(4) waiver provision -- it has not been used for some time -- if EPA would like to use an example of an age differential between agricultural and nonagricultural employment, it could point to section 13(c)(1)(B) of the FLSA, 29 U.S.C. 213(c)(1)(B), which permits 12 and 13 year olds to work in agriculture outside school hours, in nonhazardous jobs, if they are either working on the same farm as their parent or person standing in place of their parent, or are working with parental permission.

From: Smith, Peterj [mailto:Smith.Peterj@epa.gov]
Sent: Thursday, December 05, 2013 12:32 PM
To: Jones, Danielle
Cc: Hofmann, Angela; Kim, Jim; Davis, Kathy; Keaney, Kevin; Garrison, Scott; Thundiyil, Karen
Subject: EO 12866 Review: Ag Worker Protection Standard Revisions NPRM (RIN 2070-AJ22) - EPA Response to Interagency Comments
Importance: High

Hi Danielle,

I am pleased to provide EPA's response to the 100+ comments from interagency reviewers on the draft Agricultural Worker Protection Standards Revisions. We appreciate the interest and comments from the participating agencies and thank the reviewers for working hard to provide their comments last month. We are looking forward to the interagency discussion on Monday. Please let me know if there is anything else you may need from EPA in advance of Monday's discussion.

Many thanks!

Peter Smith
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From: Jones, Danielle [mailto:Danielle_Y_Jones@omb.eop.gov]
Sent: Monday, November 25, 2013 9:07 AM
To: Smith, Peterj
Cc: Hofmann, Angela; Kim, Jim
Subject: Interagency comments on EPA's proposed Worker Protection Standards

Hi Peter,

I was finally able to resolved the technical issues with my remote access. Please find the attached interagency comments on the proposed rule and EA. There are a little over 100 comments for this rule. The comments are broken down by RIA and Rule related topics. For the Rule comments, I attempted to combine like topics. However there are many instances where the topics cover multiple sections, such as the minimum age and immediate family definition. In those instances, the program area will discover some overlap. Also, some interagency reviewers had opposing views on the requirements and I provided both opinions and rationale on several topics.

Please let me know if you have any questions concerning these comments.

Have a happy thanksgiving!

Best,
Danielle